UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

Distr.
GENERAL

E/CN.4/1986/29/Add.5
20 December 1985

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-second session

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties under article VII of the Convention

Addendum

GERMAN DEMOCRATIC REPUBLIC 1/

[Original: English]
[25 September 1985]

The German Democratic Republic resolutely condemns the policy of racialism and racial segregation pursued by the ruling circles of South Africa in defiance of the letter and spirit of the Charter of the United Nations.

Not only is the South African apartheid régime guilty of the brutal and massive violation of even most elementary human rights, it also endangers world peace and international security through its continued acts of aggression, destabilization and State terrorism against independent neighbouring countries as well as through its constant military build-up. Flouting all relevant Security Council and General Assembly resolutions, particularly Security Council resolution 435 (1978), Pretoria continues its illegal occupation of Namibia, seeking to further delay the country's independence by installing a so-called transitional Government.

With indignation and abhorrence the people and Government of the socialist German State denounce the racist régime's reign of terror which has been intensified over the last few months. The German Democratic Republic unreservedly supports all decisions of the Security Council and resolutions of the General Assembly that are aimed at putting an end to the policy of apartheid. This became manifest once again in the position it took at the recent Security Council meetings on the conflict in southern Africa sharpened as a result of South Africa's policy.

1/ The initial, second and third reports submitted by the Government of the German Democratic Republic (E/CN.4/1277/Add.4, E/CN.4/1353/Add.4 and E/CN.4/1505/Add.8) were considered by the Group of Three at its 1978, 1980 and 1982 sessions.

The German Democratic Republic, which from its very inception has persistently pursued an anti-Fascist and anti-racist policy, soon after its admission to the United Nations Organization became a member of the Special Committee against Apartheid and a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

In the three periodic reports (E/CN.4/1277/Add.4, E/CN.4/1353/Add.4, E/CN.4/1502/Add.8) which the German Democratic Republic has so far transmitted to the Group of Three detailed information was given on national legislation relating to the above-mentioned Convention, on the position taken by the German Democratic Republic in international organizations and on the wide-ranging activities undertaken by the Government and the people of the German Democratic Republic in token of their solidarity with all who are fighting against colonialism, racism and apartheid.

The Government of the German Democratic Republic attaches great importance to the International Convention on the Suppression and Punishment of the Crime of Apartheid. The work of the Group of Three, which was established pursuant to Article IX of the Convention, meets with high appreciation. The list of apartheid criminals compiled so far with substantial assistance from the said Group, in the view of the German Democratic Republic, is a first and commendable step towards the implementation of the Convention.

The German Democratic Republic fully shares the view that apartheid is a form of genocide as expressed by the Group of Three and reaffirmed by the Commission on Human Rights in its resolution 1985/10 adopted at its forty-first session. The socialist German State took the necessary legislative and other measures to ensure that such crimes are liable to punishment.

Pursuant to Article 91 of the Constitution of the German Democratic Republic the generally recognized norms of international law relating to punishment of crimes against the peace, against humanity and war crimes are applicable law. Already the third report of the German Democratic Republic on the implementation of the Anti-Apartheid Convention (E/CN.4/1502/Add.8) provided detailed information on how that constitutional provision was specified in paragraph 91 of the German Democratic Republic Penal Code, which provides that all acts which may be qualified as acts of genocide are liable to punishment. The German Democratic Republic acceded to the Convention on the Prevention and Punishment of the Crime of Genocide at the earliest opportunity.

The German Democratic Republic shares the view held by the Group of Three that the apartheid régime is of a Fascist nature. The peril emanating from the apartheid State imposes on all States the obligation to decisively intensify the struggle against that anachronism of our century. Further investigations of the Fascist system in South Africa by the Group of Three would be a valuable contribution.

The socialist German State has always opposed any collaboration with South Africa. It fully associates itself with the conclusion drawn by the General Assembly on several occasions that such collaboration is a main obstacle to the eradication of apartheid. It is not least due to that collaboration that the white minority régime in South Africa is kept alive and that encouragement is given to its inhuman policies of apartheid and colonial occupation, of exploiting and oppressing Namibia as well as its acts of destabilization against the sovereign neighbouring States. Such practices show very clearly how closely the military, strategic, economic and profiteering interests of the imperialist States and their corporations are interrelated.

The German Democratic Republic holds that the responsibility for the commission of the crime of apartheid established in the International Convention on the Suppression and Punishment of the Crime of Apartheid also applies to transnational corporations. It is obvious that transnational corporations "directly abet, encourage or co-operate in the commission of the crime of apartheid", as is noted in Article III of the Convention. Already in its resolution 34/93 A the General Assembly declared any collaboration with the racist régime and with institutions of apartheid to be a hostile act against the purposes and principles of the Charter of the United Nations and a threat to international peace and security. In resolution 39/42 the General Assembly reaffirmed that all those economic and other relations with South Africa which impede the elimination of colonialism and apartheid in southern Africa are in contravention of the Charter. These perceptions are fully endorsed by the German Democratic Republic. In its resolution 35/39 the General Assembly had for the first time called upon the Commission on Human Rights to take account in further complementing the list of perpetrators of the crime of apartheid, also of those resolutions and instruments which, inter alia, denounce the complicity of transnational corporations and banks with the régime of apartheid. In this context, the Government of the German Democratic Republic points out that in Article I, paragraph 2, the States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid declare criminal also organizations and institutions committing the crime of apartheid. No doubt, that provision is applicable to transnational corporations.

Moreover, Article X of the Convention expressly empowers the Commission on Human Rights to prepare a list of organizations and institutions that bear responsibility for the crime of apartheid.

An element of the responsibility of transnational corporations should be their liability for damages or their expropriation in favour of the people of South Africa or Namibia when one day the apartheid régime will have been eliminated or when Namibia will have gained independence. The existence of a right to claim compensation in connection with the crime of apartheid has expressly been affirmed on several occasions by the United Nations, for instance in its resolutions 3336 (XXIX), 33/182 A, 38/39 C as well as in the Decree No. 1 of the United Nations Council for Namibia.

Activities designed to discover such transnational corporations and banks as participate in racist exploitation in South Africa and Namibia or render assistance in some form or other to the apartheid régime are extremely important with a view to registering and securing assets that can be used to settle the compensation claims of the people of South Africa and Namibia and of the States directly affected by South African acts of aggression. The reports submitted by Mr. Khalifa on corporations collaborating with South Africa are very helpful in this effort.

However, the responsibility of transnational corporations for their participation in crimes of apartheid should take effect before the racist régime is eliminated. The German Democratic Republic, at this point, draws attention to the need of making immediate and full use of the possibilities of national jurisdiction concerning the responsibility of collaborating corporations.

In this respect, the German Democratic Republic starts out from the duty of States as reaffirmed in various resolutions of the General Assembly to prevent corporations under their jurisdiction from collaborating with the apartheid

régime or with institutions of South Africa. States which fail to do so have to assume full responsibility under international law.

In resolution 39/42 the General Assembly again called upon States to take all necessary measures, including legislative ones, to ensure the severance of all relations with South Africa. The German Democratic Republic, which voted for that resolution, holds the view that legal action against transnational corporations and banks on account of their collaboration with South Africa would be greatly conducive to the struggle of the people of South Africa and Namibia against the racist régime as well as to the efforts of the United Nations to eliminate the policy of apartheid.

The German Democratic Republic will continue to help unmask every instance of complicity with the régime of apartheid. One way of doing so, it feels, is the adoption of General Assembly resolutions on the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid, an instrument for which the German Democratic Republic in its capacity as author will make special efforts also in future.

The socialist German State emphatically supports the growing international call for the imposition of comprehensive sanctions on South Africa pursuant to Chapter VII of the Charter. It welcomes the weapons embargo imposed on Pretoria in accordance with Security Council resolution 418 (1977). The German Democratic Republic reaffirms that it does not maintain any relations with South Africa, neither in the political, economic or military nor in any other field. This is in line with what has always been a policy of principled support of the peoples' struggle for peace, security and social progress, against imperialist predominance, racism and apartheid. The German Democratic Republic will continue to practise firm solidarity with the oppressed people of South Africa and Namibia led by their representatives, ANC and SWAPO, in their just struggle.